

Executive Summary

Purpose

The purpose of this Assumption Feasibility Study (Study) is to provide the local elected officials and community members with a clear and objective analysis of the projected impact of an assumption of the Liberty Lake Sewer and Water District (District) by the City of Liberty Lake (City). The goal of the study is to identify the option that offers the community the best possible utility services while achieving equitable rates, fair representation, and efficient operations now and into the future. The Study assesses various actions associated with current and future organization, utility system operations, and financial issues related to the provision of water, wastewater, stormwater, and lake management services.

Organization of the Study

The Study has been organized to facilitate identification of the issues, formulation of alternatives, and discussion of findings and conclusions. In general, the first section, titled “Background” presents the historical information relating to the District, the City, and the evolution of this assumption process. Following the “Background” section, the various options are discussed, including Status Quo, Partial Assumption, and Assumption. Each section provides a discussion of the organization, utility system operations, and financial issues associated with each of the options. The final section discusses the consistency of the assumption option with State statutes, Boundary Review Board procedures, County-wide Planning Policies, and the local City Comprehensive Plan. Technical appendices containing supporting documents are also provided.

Background

The District was formed in 1973 to provide wastewater service in order to reduce pollution into Liberty Lake. Water service was added in 1978. In 1980, the District issued wastewater revenue bonds to pay for a new 1 million gallons per day (MGD) sewage treatment plant. A substantial portion of the costs for construction and operations was borne by Hewlett Packard (HP), the Highlands, and Homestead developers. The HP and Homestead properties were annexed into the District in 1981.

In 1980, the District contracted for the initial Liberty Lake Restoration Project. Resolution 61-81 implemented policies to reduce, minimize, and/or eliminate pollution of Liberty Lake. In 1983, the District amended Resolution 61-81 and adopted Spokane County (County) Guidelines for Stormwater Management.

The current sewage treatment plant was completed in 1983. In 1987, the District adopted the Spokane Aquifer Water Quality Management Plan. They adopted the regional Spokane River Phosphorus Management Plan in 1989. That year, they also adopted a Stormwater and Lake Management Comprehensive Plan. Stormwater management practices were consolidated again in 1992 and 1998.

In 1993, the District entered into a Fire Protection and Emergency Intertie Agreement with the East Side Liberty Lake Improvement Club (ELLIC), a private, non-profit homeowners association. The ELLIC was originally formed in 1945 to provide water service to homes around the eastern shore of Liberty Lake. The ELLIC is recognized by the Department of Health as a Group A community water system in the same area where wastewater service is provided by the District. The agreement was updated by the Board in 1998 and again in 2001 to increase the hourly rate for maintenance work performed by District personnel.

The name of the District was changed to the Liberty Lake Sewer and Water District in 1998 and they constructed their current office building. In 2000, the District agreed to participate in the Wellhead Protection Implementation Program of the Spokane Aquifer Joint Board, including a financial commitment. In 2001, the District approved the Final Facilities Plan for the Liberty Lake Wastewater Treatment Facility. They are currently planning to implement the plan and construct treatment upgrades, phosphorus removal, and expansion of the treatment plant.

The District's current wastewater treatment plant (WWTP) is operating under an outdated 1998 National Pollution Discharge Elimination System (NPDES) permit that is up for renewal by the Washington State Department of Ecology (Ecology). In conversations with Ecology staff, they have stated that the current permit may be administratively extended without changing any of the provisions. However, issuance of a new permit will not occur until results of an on-going Total Maximum Daily Load (TMDL) study for appropriate levels of dissolved oxygen in the Spokane River is completed and adopted in 2005. The agency has stated that the new permit will likely require significantly increased phosphorus removal beyond the current required level of treatment.

As it stands today, effluent flows from the WWTP are allowed up to 0.89 MGD without phosphorus treatment and up to 1.0 MGD if 85 percent of all influent phosphorus is removed before discharge to the Spokane River. The District projects that it will exceed its 0.89 MGD capacity in 2005-2006. In addition, it also has approximately 973 equivalent residential units (ERU) of service commitments to private corporations and land holdings that have previously made financial payments toward wastewater service.

The District's 2003 Comprehensive Wastewater System Plan projects that almost all of projected flow increases will come from within the City's limits. By 2025 those flows may range between approximately 1.3 MGD to 1.6 MGD given variances in assumed flows per ERU and non-residential development. However, the upgrades proposed in the District's Wastewater Treatment Facilities Plan are based on a 2.0 MGD capacity with river discharge up to the 85 percent removal level for phosphorus. Ecology's June 9, 2004 approval letter specifically disapproved any flows in excess of 1.0 MGD. Ecology also noted that, upon completion of the dissolved oxygen TMDL study, the District may be required to make additional upgrades. Speculation over substantially increased treatment requirements, regulatory mandated "out of river" disposal during summer months, improvements in future treatment technology, and related cost impacts for existing rate payers on a plant sized well beyond 20 years have created increased interest in incremental and/or regional strategies for wastewater management solutions.

Growth in the past years has changed the composition of the area from mostly rural to suburban in nature. In response to this growth, the City was incorporated by a vote of the people in November 2000, and officially opened for business on August 31, 2001. The boundaries of the new City encompass approximately 76 percent of the District's service area, and 78 percent of District taxable assessed valuation. Over the course of the few months following the official opening, the new City took over planning functions from the County in September 2001, created its own police force in October 2001, and moved into its current City Hall space in November 2001.

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The City has been actively establishing the tangible and intangible infrastructure expected to be present in a City. The City also continually evaluates the services offered to area residents and seeks opportunities to enhance services provided. The City currently operates a stormwater utility that provides stormwater management, maintenance and operations, plus review and inspection for projects within the City limits. The City formally adopted its Comprehensive Plan on September 30, 2003. In this Comprehensive Plan, Section 6, titled "Utilities," it states,

"Public sewer and water are currently provided to the majority of the City by the Liberty Lake Sewer and Water District. It is anticipated that sewer and water will become municipal City services as allowed by state law under RCW 35.13A."

On November 18, 2003, the City Council approved Ordinance 120 to:

"exercise all authority pursuant to RCW Chapter 35.13A providing for the assumption by the City of Liberty Lake of the Liberty Lake Sewer and Water District, No. 1. The City shall acquire all District property and assume responsibility for provisions of services, maintenance and operations of facilities, allocation of cost, financing, and other related matters, all as set forth in RCW Chapter 35.13A." Section 9, Administrative Authority, states, "The City Council hereby confers upon the Mayor and designee the authority to perform all acts, including but not limited to the filing of permits, applications and requests reasonably required to accomplish the matters set forth herein, Chapter 35.13A RCW, and all other applicable laws."

On December 4, 2003, the District filed lawsuit against the City and key City staff. The lawsuit identified a number of action items including:

- to stay the City from taking further steps to effectuate assumption,
- to declare Ordinance 120 invalid,
- to find that the City has no authority to proceed under Chapter 35.13A RCW until it submits its utility decision to the voters,
- to require the City to take steps under SEPA before considering such an ordinance.

On February 4, 2004, the City Council approved a contract with Economic and Engineering Services, Inc., (EES) and Southwick Enterprises (consultants) for this Assumption Feasibility Study. Initially, this Study was a collaborative effort between the District and the City, with the

ultimate goal of setting forth the best course of action for the utilities. In personal communications with District Commissioners, they have expressed pride of District accomplishments and concern about any change that might degrade these efforts. They acknowledged that the Growth Management Act (GMA) dictates that cities are responsible for providing utility services within their corporate and urban growth area (UGA) boundaries. The District's opposition to an assumption by the City has been based primarily on the timing of this action, suggesting that the transfer of District responsibilities be deferred possibly five to ten years. The District is concerned that the City is not prepared to take over full operations of the utilities and has cited the following items of particular concern:

- The City does not have utility experience.
- The residents outside the corporate boundaries are not represented under City ownership.
- The City can apply surcharges and taxes to outside city residents.
- The District is a single focus body; the City has many different functions.
- The City has no responsibility to take on the District's stormwater program.
- The City has no responsibility to take on the District's lake management program.
- The City's costs will be higher than the District's due to an increased overhead allocation.

On September 10, 2004, a court decision affirmed the District's lawsuit on the majority of the above procedural issues related to Ordinance 120. However, the City's intent to pursue assumption and their objectives for this effort are still intact and addressed by this report. Any further references to Ordinance 120 herein are made not to rely on the legality of that ordinance but as a point of reference to the sequence of events in developing this report. The legal procedures to implement an assumption strategy are not the subject of this report.

Conclusions

The consultants have worked with City staff, District staff, various applicable regulatory agencies including Washington State Department of Health, Auditor's Office, and Ecology, and studied the books and records provided by both the City and the District to identify and answer many of the questions and issues raised throughout this review. The consultants have identified three main options for the assumption proceedings. They are:

- Operations at status quo,
- Operations at partial assumption, and
- Operations under assumption.

A brief summary of the consultants' conclusions related to the options is provided below.

Maintaining Status Quo – "Current Capability"

One possible result of this assumption process is to maintain utility operations at status quo, or without any change to the current structure. Under status quo, the District would continue to offer water and wastewater services throughout its current service area, provide stormwater review services in the unincorporated areas of its current service area, and lake management services for an indefinite or negotiated period of time. The City would continue to operate its stormwater utility within its corporate boundaries.

Maintaining status quo would likely have limited visible impact to existing utility customers with the exception of any public relations efforts or other publicity resulting from this process to date.

However, maintaining status quo does not address the overlap of jurisdictional authority between the District and the City. This option maintains the current representational imbalance on the District Board of Commissioners where all three Board members reside outside of the City limits, while approximately 75 percent of their constituents reside within the City. It also does not afford the City the opportunity to enhance utility services or to perform an integrated planning process between land use, growth management, environmental reviews and water, wastewater, and lake management services. As a specific example, new significant capital improvements such as the District's pending WWTP expansion are subject to environmental review and permitting by the City.

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In addition to the jurisdictional overlap, this option could create confusion for members of the development community that seek stormwater reviews and permits from adjacent jurisdictions with potentially differing standards. Status quo also disallows the possible benefits afforded under City governance including a more holistic approach to utility management through expanded regional involvement due to the backing of a larger organization and a greater financing capacity due to broader revenue sources. Status quo also defers the issue of ultimate utility management under City control, as per the GMA.

Partial Assumption – “Mixed Capability”

A partial assumption would entail identifying which services are transferred from District control to City control for utility customers within the corporate boundaries. Under this option, the City would proceed to assume jurisdiction over only the portions of the District within the City boundaries. This option solves the City's concerns over assuming responsibility for planning and utility service within its corporate boundaries, and the District's concerns over maintaining protection of Liberty Lake and representation of customers outside the City limits. However, it ignores the fundamental economics of utility operations and further confuses an already unclear situation. A few of the key problems inherent in a partial assumption are listed below:

- Unclear delineation of whether the District or City is responsible for honoring existing service commitments, i.e., Water – 897 ERUs; Wastewater – 973 ERUs
- Severe administrative costs to identify and separate District and City responsibility
- Severe and unnecessary costs associated with separating infrastructure, including:
 - ◆ Fair cost-sharing for facilities that serve both agencies
 - ◆ Difficult allocation of assets and liabilities

- ◆ The added cost of constructing parallel pipelines or duplicate pumping and storage facilities if a reasonable method of sharing such infrastructure can not be achieved.
- ◆ District ownership of existing water reservoirs that lie south of Sprague Avenue.
- ◆ City ownership of the WWTP without the dedicated financial reserves already collected by the District.
- Potential for uncoordinated policies and planning efforts between two neighboring jurisdictions
- Confusion of rate structures for customers on the border
- Inconsistent development standards
- Inefficiency of having two completely independent utilities
 - ◆ Staffing
 - ◆ Support infrastructure
 - ◆ Planning documents

A partial assumption could also make the District economically non-viable through the reduction in customer base as approximately 75 percent of the District's current customers are within the City's boundaries. Administratively, a partial assumption poses a significant initial investment through the cost of negotiating agreements that address the provision of utility service from one entity to another, as well as agreements regarding the allocation of future capacity, and possible studies to identify infrastructure adjustments necessary for the separation of the utility systems. While technically possible, the diminished service levels caused by a partial assumption, the costs associated with implementing a partial assumption, and the overall negative impacts of a partial assumption cause this to be the worst possible outcome for Liberty Lake customers. If this option is chosen, a more intense and detailed study of the impacts and results will be required.

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Assumption – “More Capability”

The third option, as recognized by State statutes, is an assumption. Under this option, all control for the utility functions performed by the District would transfer to the City. As stated before, the District Commissioners oppose assumption at this time because of perceived unresolved issues. The City is aware of the District's concerns identified in the Background section of this Executive Summary, and is committed to ensuring a high standard of service for water, wastewater, stormwater, and lake management as part of this process. As an indication of its commitment to resolving these issues, on October 19, 2004, the City passed Resolution No. 04-74 stating the following commitments to the community of Liberty Lake:

Organization

1. The City will offer employment to all District employees and will negotiate compensation commensurate with existing City salaries and benefit programs.
2. The City will form a Utilities Advisory Committee to ensure representation of all customers, inside and outside the City.
3. The Utility Advisory Committee will advise the City on rate issues as well as overall utility concerns including issues related to regional planning and benefit.

Systems and Operations

4. The City will actively participate in regional issues including the Spokane Aquifer Joint Board and wastewater discharge negotiations.
5. The City will pursue solutions that best benefit utility customers, the Liberty Lake community, the Spokane River, and the region.
6. The City will assume responsibility for stormwater services throughout the current service areas of LLSWD and will maintain protective standards in the surface water watershed.
7. The City will assume responsibility for a credible lake management program that provides water quality and flood management services.

Financial

8. All overhead expenses will be allocated based upon a fair and equitable distribution calculated using generally accepted allocation principles.
9. The City will apply a cost-based methodology to utility rates and charges, ensuring the collection of utility expenses in a fair and equitable manner from homogenous classes of customers.
10. The City will not impose a surcharge on customers based upon their location, i.e., inside the City limits versus outside the City limits.
11. A utility tax, should one ever be adopted, will not be utilized to fund anything except items of community value, which may include lake management.
12. The City will utilize separate account tracking for water, wastewater, stormwater, and lake management activities.

With this Resolution in place, the consultants view the assumption option as a seamless transfer of responsibility between jurisdictions without sacrificing any level of service. One major distinction, however, is that the authority granted to the City in Washington State law to plan, finance, construct, implement, and perform these services exceeds that of the District. Further, under City authority, there are additional benefits to the utility systems and their customers, both inside and outside the City limits. These benefits include:

- The utility systems will become part of a more integrated, comprehensive, and holistic planning and environmental review process, allowing for a structured response to the demands of growth through land use and other planning efforts.
- The City has greater financial flexibility than the District as it can draw upon a broader range of revenue sources.
- This option allows the City to implement policies and procedures relating to the provision of utility service consistent with other City policies and procedures, preventing conflicting missions in the future which would require a coordinated and costly effort to correct.
- This option continues lake management and protection strategies.
- This option allows for consolidated stormwater reviews.
- This option facilitates regional participation in groups such as regional wastewater disposal, conservation, and water resource protection through the Spokane Aquifer Joint Board.
- This option expedites the accomplishment of regional goals for wastewater effluent reuse as the City already owns one of the region's three golf courses where land application could occur.
- This option expedites water supply development for future growth as the City already owns a well with significant annual and instantaneous water rights, beyond that which the District could obtain for municipal and irrigation purposes.
- The consolidation of utility services under City management also allows for expanded professional development of staff through cross-training which can reduce overall costs to citizens throughout the area, provide better resources in times of emergencies, and enhance career opportunities for all staff.
- The consolidation of utility services under City management will remove existing staffing duplications, including redundant costs for elected officials and outside consultants, including some but not all engineering and legal support.

In order to realize the benefits to both the existing and future customers of the utility systems, the City is willing to enter into contractual agreements for an assumption setting forth terms by which the policy statement/ordinances mentioned earlier are enacted.

This Study was originally believed to reveal considerable economies of scale through reduced operating expenses by combining governments and reduced infrastructure costs through the use of the District's current administration building as a City Hall and utility office, and use of the District's fleet and maintenance facilities. However, since the inception of this Study, the City had to move forward with plans for a new City Hall and has also purchased City vehicles and storage buildings. Therefore, some of the immediate economies of scale originally anticipated to be the result of an assumption will not be realized. However, there are still operating savings to be realized through a consolidation. In the near term, the impact of these savings may be less significant on the customer. In fact, the decision regarding an assumption may hinge more on the ability to

provide more efficient and complete government services than financial gains from the conversion.

In short, the results of the enclosed evaluation conclude that, in the Liberty Lake community, the City has greater overall capabilities than the District. The City has more statutory authority, more planning and review responsibility, more financial capability, more staffing opportunities, and more utility resource options without sacrificing the level or quality of service. Given the available alternatives and the implications associated with each, it's the consultants' opinion that this decision is more heavily influenced by perceived benefits and local representation than overriding financial advantages. Both jurisdictions serve the same core customer group, both have expressed the same commitment of providing a high level of service, and both share the same incentive to protect the area's future economic vitality and quality of life. Notwithstanding the past contributions and leadership provided by the District, the confusion, conflict, and inefficiencies of multiple layers of government in this relatively small geographical area are inescapable.

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Implementation

The City will process this Study for compliance with the State Environmental Policy Act. That process will take public comments into account and be incorporated into the Final Study. After the Final Study is accepted, the City Council will make a decision whether to move forward with assumption or take other action as deemed appropriate.

If the Council decides to move forward with an assumption, a Notice of Intent will be prepared and submitted to the Spokane County Boundary Review Board (BRB). The BRB will have a 45 day period for review and determine if they will invoke jurisdiction.

The BRB's decision must take the following objectives, as well as other statutes and goals into consideration. These objectives primarily apply to incorporations of or annexations to cities and districts but also must be considered for assumptions. Not all of the objectives shown below must be met for a proposal to be approved.

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"The decisions of the boundary review board shall attempt to achieve the following objectives."

"(1) Preservation of natural neighborhoods and communities;"

Response. Approximately 75 percent of the population of the Liberty Lake community resides within the City limits. The concerns of the "natural neighborhood and community" around Liberty Lake are being addressed by the City and the policies

accompanying the assumption. Representation is being afforded for the citizens outside the City limits regarding utility services, rates, and policies by the City's formation of a Utility Advisory Committee. Further, the City's policy has made clear its commitment to maintain a credible lake management program for water quality and flood management of Liberty Lake.

“(2) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;”

Response. The boundaries of the assumption pertain to the entire service area of the District. In fact, the boundaries formed by Sprague Avenue may appropriately differentiate between rural and urban areas, but are unnecessary for the provision of wastewater, water, stormwater, and lake management services offered by the City. The service area boundaries utilize Liberty Lake, the Spokane River and the UGA boundaries to the extent possible. The District pre-dated the GMA and the creation of the UGA boundaries so its service area includes areas outside of the UGA.

“(3) Creation and preservation of logical service areas;”

Response. Assumption will consolidate the District's corporate limits with the rest of the current and future City boundaries. Approximately 76 percent of the District lies within the City limits. Furthermore, projections of growth by the District's Comprehensive Wastewater and Water Plans, along with the City's Comprehensive Plan, predict that future growth will occur primarily within the City limits

“(4) Prevention of abnormally irregular boundaries;”

Response. No abnormal or irregular boundaries would be created by assumption. See the response for item (3).

“(5) Discouragement of multiple incorporations of small cities and encouragement of incorporation of cities in excess of ten thousand population in heavily populated urban areas;”

Response. Does not apply. Further incorporation activities are not anticipated. Assumption would eliminate an overlapping layer of government in the incorporated areas and reduce the number of jurisdictions in the area by one.

“(6) Dissolution of inactive special purpose districts;”

Response. Does not apply. The District is not inactive.

“(7) Adjustment of impractical boundaries;”

Response. See response to items (2) and (3).

“(8) Incorporation as cities or towns or annexation to cities or towns of unincorporated areas which are urban in character; and”

Response. Nothing proposed in the assumption is intended to change the current designations of urban and rural lands. The City limits correspond to the UGA. The levels of service will continue to be consistent with the character and density of land as designated in the City and County Comprehensive Plans.

“(9) Protection of agricultural and rural lands which are designated for long term productive agricultural and resource use by a comprehensive plan adopted by the county legislative authority”

Response. Areas of interest to this topic are located outside of the UGA, outside of the City limits, and are protected by the Spokane County Comprehensive Plan. As such, they are not affected by an Assumption.

The City, the District, or the County could ask the BRB to invoke jurisdiction. If jurisdiction is not invoked, the assumption will receive administrative approval by the BRB. If jurisdiction is invoked, the BRB must hold a public hearing within 120 days on the Notice of Intent where the City, District, and public may submit their presentations and comments to the BRB. After the public hearing, the BRB must make its decision to approve or deny the City’s action. Decisions by the BRB can be appealed to the Spokane County Superior Court by the losing party. A Superior Court decision is final and binding.

At any point in this process, the parties could agree to negotiate a contract that would meet mutual acceptance for an assumption and save further costs of evaluation, litigation, and procedural requirements.

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